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MAILED
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In re Application of:
DiPierro
Appl. No.: 09/993,450
Filed: November 06, 2001
For: SYSTEMS, METHOD AND DEVICES FOR SECURE
COMPUTING

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), May 09, 2002 to expunge information submitted pursuant to MPEP § 724.02.

The petition is **DISMISSED**.

Petitioner requests that the 3 CD-ROMs submitted on April 26, 2002 be expunged from the record. Petitioner states that the information contains materials that are subject to a trade secret material which has not been made public. The petition fee set forth in 37 CFR 1.17(h) has been.

The petition is premature because the application has not been allowed or abandoned. Accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being defined as any information which the examiner considers as being important to a determination of patentability of the claims. Thus, the petition to expunge must be dismissed at this time.

During prosecution on the merits, the examiner will determine whether or not the identified document is considered to be "material." Once prosecution on the merits is closed, applicant may re-submit a petition to expunge the information. No further fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be returned to applicant.

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